

Temporary Furloughs (Rule 5-16)

Amendments Approved by the Civil Service Commission October 9, 2003, Effective Immediately

Under new Rule 5-16 (Temporary Furloughs), all nonexclusively represented employees (NEREs) will be required to take paid and unpaid furlough hours between October 12, 2003, and September 30, 2004. The principal features of the furlough program are the following:

A. Unpaid Furlough Hours

Each *full-time* NERE hired before October 12, 2003, must take 40 unpaid furlough hours. *Part-time* employees and employees hired after October 12, 2003, must take a pro rata share of 40 unpaid furlough hours. [Regulations to be issued soon will describe the methods for computing an employee's pro rata share of hours.]

1. **One Unpaid Furlough Day on January 2, 2004.** All NEREs scheduled to work on January 2, 2004, will be furloughed without pay on January 2, 2004 (except "essential" employees, who will be required to work). A full-time employee will take 8 unpaid furlough hours and a part-time employee will take a pro rata share of 8 hours. [Any unpaid furlough hours taken on January 2, 2004, will count toward the employee's required total number of furlough hours.]

"Essential" employees required to work on January 2 or NEREs whose regular day off falls on January 2, must take an equivalent number of unpaid floating furlough hours later in the year.

2. **Additional Unpaid "Floating" Furlough Hours.** Each NERE must take additional floating furlough hours during FY 2004 that, when added to hours taken on January 2, equal the total number required (e.g., 40 hours for full-time employees).

When recommended by an appointing authority and approved by the State Employer, the State Personnel Director, in limited circumstances, may exempt an employee from the requirement to take unpaid furlough hours.

B. One Paid Furlough Day on December 26, 2003

All NEREs scheduled to work on Friday, December 26, 2003, will be furloughed with pay on December 26, 2003 (except "essential" employees, who will be required to work). For most practical purposes, December 26, 2003, is a new (albeit temporary) holiday.

An essential employee who is required to work on December 26, 2003, in addition to being paid, will accrue 8 hours of annual leave for later use. An employee whose regular day off falls on December 26, 2003, will also accrue 8 hours of annual leave.

Amendments to Civil Service Rules

New Rule 5-16: Temporary Furloughs

Approved October 9, 2003, effective immediately

[All text is new]

5-16 Temporary Furloughs

5-16.1 Unpaid Furlough Hours

- (a) **Unpaid furlough hour defined.** An unpaid furlough hour is an otherwise regularly scheduled work hour during which the employee, at the direction of the appointing authority, does not work and is not paid.
- (b) **Relation to other rules and regulations.**
 - (1) **Insurance, leave accruals, and service credits.** Notwithstanding any other civil service rule or regulation or the fact that an employee's work hours or pay is reduced by the requirement to take unpaid furlough hours, all unpaid furlough time is considered creditable time for all purposes, including, but not limited to, the following:
 - (A) Satisfaction of the standard 80-hour biweekly work period for full-time employees [rule 5-2.1].
 - (B) Compliance with compensation schedules [rule 5-3].
 - (C) Eligibility for overtime compensation [rule 5-4.2].
 - (D) Computation of service hours for the following:
 - (1) Longevity [rule 5-8].
 - (2) Annual and personal leave [rule 5-10.2(a)(1)].
 - (3) School participation leave [rule 5-10.2(a)(2)].
 - (4) Sick leave [rule 5-10.2(a)(3)].
 - (5) Holiday pay for less than full-time appointments [rule 5-10.1].
 - (6) Completion of a probationary period [rule 3-6.2].
 - (E) Eligibility for group insurance plans and benefit levels [rules 5-2.2 and 5-11].

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- (F) Computation of total continuous service hours for all purposes, including, but not limited to, employment preference, layoff, recall, step increases, and, if authorized by statute, retirement.
- (2) **Not a break in service.** An employee does not incur a break in service as a result of taking unpaid furlough hours.
- (3) **No substitution.** An employee cannot substitute annual leave, sick leave, school leave, banked leave time, or any other paid status for an unpaid furlough hour.
- (c) **Scheduling unpaid furlough hours.**
- (1) **Scheduled day on January 2, 2004.**
- (A) All employees, except essential employees who are required to work on January 2, 2004, shall be furloughed without pay on January 2, 2004.
- (B) If an employee (1) is not designated as an essential employee and the employee's regular day off falls on January 2, 2004, or (2) is designated as an essential employee and works on January 2, 2004, the employee must schedule and take the following number of unpaid furlough hours in accordance with subsection (c)(2) [Floating Unpaid Furlough Hours]:
- (1) An employee in a full-time appointment must schedule and take 8 unpaid furlough hours.
- (2) An employee in a less than full-time appointment must schedule and take a pro rata share of 8 unpaid furlough hours, as provided in the regulations.
- (C) Furloughed employees who have a regular work schedule in excess of 8 hours on January 2, 2004, may elect any one of the following to complete their scheduled work day in excess of 8 hours:
- (1) Use accrued annual leave hours, banked leave time hours, or compensatory time.
- (2) Accept lost time.
- (3) Accept unpaid furlough hours.
- (2) **Floating unpaid furlough hours.** Notwithstanding any other rule or regulation, each employee is required to take the following number of unpaid furlough hours between October 12, 2003, and September 30, 2004, consistent with applicable law:
- (A) An employee in a full-time appointment hired on or before October 12, 2003, is required to take 40 hours of unpaid furlough leave. Any unpaid furlough hours taken on January 2, 2004, count toward the 40-hour requirement.
- (B) An employee in a full-time appointment hired after October 12, 2003, or an employee in a less than full-time appointment is required to take a pro rata share of
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40 unpaid furlough hours, as provided in the regulations. Any unpaid furlough hours taken on January 2, 2004, count toward the hours requirement.

- (3) **Scheduling by employee.** An employee may take floating unpaid furlough hours when approved by the appointing authority in the same manner as annual leave. However, an employee cannot take more than 8 hours of unpaid furlough hours in any one week (defined as Sunday through the following Saturday).
- (4) **Scheduling by appointing authority.** If an employee has not scheduled the required unpaid furlough hours by May 24, 2004, the appointing authority shall schedule any remaining required unpaid furlough hours. The appointing authority must give an employee notice of any scheduled unpaid furlough hours at least 14 calendar days before the beginning of the pay period in which the unpaid furlough hours are scheduled. The appointing authority shall not schedule more than 8 unpaid furlough hours in any one pay period.

5-16.2 Paid Furlough Day

- (a) **Paid furlough day defined.** A paid furlough day is an otherwise regularly scheduled work day during which the employee is prohibited from working but is paid in the same manner and rate of pay as if the paid furlough day was an approved state holiday authorized under rule 5-10.1 [Paid Holidays].
- (b) **Scheduled on December 26, 2003.** All employees, except essential employees who work on December 26, 2003, shall take 1 paid furlough day on December 26, 2003.
- (c) **Essential employees.** If an employee is designated as an essential employee and works on December 26, 2003, the employee is credited with a number of hours of annual leave equal to the number of hours actually worked, but not exceeding 8 hours, in addition to any pay for the time worked on December 26, 2003.
- (d) **Scheduled regular day off.** If an employee in a full-time appointment does not work on December 26, 2003, because of a scheduled regular day off, the employee is credited with 8 hours of annual leave. If an employee in a less than full-time appointment does not work on December 26, 2003, because of a scheduled regular day off, the employee is credited with a pro rata share of 8 hours of annual leave, as provided in the regulations.

5-16.3 Essential Employees

An appointing authority may, in its sole discretion, designate as an essential employee for the purposes of this rule any employee who is required to work on December 26, 2003, or January 2, 2004.

5-16.4 Exemptions

An appointing authority, with the consent of the state employer, may request that the state personnel director exempt an employee from the obligation to take some or all of otherwise required unpaid furlough hours. Notwithstanding section 5-16.1(c), the state personnel director may exempt the employee if the director determines that (1) the employee is providing immediate essential public services or (2) uncommon extenuating circumstances warrant granting an exemption for the employee.

5-16.4 Grievances

If an employee is aggrieved by application of this rule and the complaint is otherwise grievable under rule 8-1.3(a)(1) through 8-1.3(a)(8), the employee may file a grievance under and in accordance with rule 8-1 [Grievances].
